

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RONALD L. FLEMING,</b>	:	<b>Civil No. 1:21-CV-349</b>
	:	
<b>Plaintiff</b>	:	<b>(Judge Mannion)</b>
	:	
<b>v.</b>	:	
	:	
<b>KELLY YATES, et al.,</b>	:	<b>(Magistrate Judge Carlson)</b>
	:	
<b>Defendants.</b>	:	

**MEMORANDUM AND ORDER**

This *pro se* civil rights case is currently proceedings against two defendants: C.O. Kerwin and trooper Brandon Black of the Pennsylvania State Police. C.O. Kerwin has been served, counsel has entered an appearance for this defendant, and the defendant has filed a motion to dismiss. (Doc. 33). There is no record of service upon Defendant Black.

It is against this backdrop that the plaintiff has filed a motion for extension of time, which appears to request additional time to respond to the motion to dismiss, and inquires into the status of service upon Defendant Black. (Doc. 36). This motion is GRANTED in part as follows:

First, the clerk is directed to endeavor once again to serve Defendant Black by U.S. mail.

Second, IT IS ORDERED that the plaintiff is directed to respond to this defense motion to dismiss on or before **April 18, 2022**. Pursuant to Local Rule 7.7 the movant may then file a reply brief on or before **May 2, 2022**. All briefs must conform to the requirements prescribed by Local Rule 7.8. No further extensions shall be granted, absent compelling circumstances.

The plaintiff, who is proceeding *pro se*, is advised that Local Rule 7.6 of the Rules of this Court imposes an affirmative duty on the plaintiff to respond to motions, and provides that:

Any party opposing any motion, other than a motion for summary judgment, shall file a brief in opposition within fourteen (14) days after service of the movant's brief, or, if a brief in support of the motion is not required under these rules, within seven (7) days after service of the motion. *Any party who fails to comply with this rule shall be deemed not to oppose such motion.* Nothing in this rule shall be construed to limit the authority of the court to grant any motion before expiration of the prescribed period for filing a brief in opposition. A brief in opposition to a motion for summary judgment and LR 56.1 responsive statement, together with any transcripts, affidavits or other relevant documentation, shall be filed within twenty-one (21) days after service of the movant's brief.

Local Rule 7.6 (emphasis added).

It is now well-settled that “Local Rule 7.6 can be applied to grant a motion to dismiss without analysis of the complaint's sufficiency ‘if a party fails to comply with the [R]ule after a specific direction to comply from the court.’ Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (1991).” Williams v. Lebanon Farms Disposal, Inc.,

No. 09-1704, 2010 WL 3703808, \*1 (M.D. Pa. Aug.26, 2010). Therefore, a failure to comply with this direction may result in the motion being deemed unopposed and granted.

So ordered this 4<sup>th</sup> day of April 2022.

*S/Martin C. Carlson*  
Martin C. Carlson  
United States Magistrate Judge